

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

TONI R. LOWERY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION NO.: 4:21-cv-6

(Formerly 4:19-cr-66-8)

ORDER

After a careful *de novo* review of the entire record, the Court concurs with the Magistrate Judge's January 25, 2023, Report and Recommendation, (doc. 11), to which Petitioner has not objected.¹ The Court **ADOPTS** the Report and Recommendation as its opinion. (Doc. 11.) For the reasons discussed by the Magistrate Judge, Lowery's 28 U.S.C. § 2255 motion, (doc. 1), is **DISMISSED without prejudice**. The Government's Motion to Dismiss is **DISMISSED as moot**. (Doc. 8.)

There are no discernable issues worthy of a certificate of appeal. Therefore, the Court **DENIES** the issuance of a Certificate of Appealability. Lowery is advised that she "may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22." Rule 11(a), Rules Governing Section 2255 Cases in the United States District Courts. Furthermore, as there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Thus, the Court likewise **DENIES** Lowery *in forma pauperis*

¹ In fact, the service copy of the Report and Recommendation was returned as undeliverable. (Doc. 12.) Lowrey, therefore, appears to have failed to comply with the Local Rules' requirement "to apprise the Court of any address change." L.R. 11.1. Lowrey's noncompliance with Local Rule 11.1 provides an alternative basis for dismissal. Cf. Fed. R. Civ. P. 41(b).

status on appeal. The Court **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal.

SO ORDERED, this 29th day of March, 2023.



R. STAN BAKER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA